

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF TENNESSEE  
AT GREENEVILLE

UNITED STATES OF AMERICA	)	
	)	
v.	)	No. 2:08-cr-38
	)	
ROBERT MARK McPHERSON	)	

**ORDER**

This criminal case is before the court on the report and recommendation of magistrate judge Dennis H. Inman [doc. 216] that the defendant's motion to dismiss the Fourth Superseding Indictment for violations of the Speedy Trial Act [doc. 206] be denied. Neither the defendant nor the government have filed any objections to the report and recommendation, and no transcript of the hearing on the motion has been prepared.

Under 28 U.S.C. § 636(b), a *de novo* review by the district court of a magistrate judge's report and recommendation is both statutorily and constitutionally required. See *United States v. Shami*, 754 F.2d 670, 672 (6th Cir. 1985). However, it is necessary only to review "those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b); see also *United States v. Campbell*, 261 F.3d 628, 631-32 (6<sup>th</sup> Cir. 2001).

The court has reviewed *de novo* the report and recommendation and the pleadings, and **ADOPTS** the findings of fact and conclusions of law set out in the report and recommendation. The court agrees with Judge Inman that the defendant's pretrial detention is of some concern, but it does not yet reach a presumptively prejudicial threshold. Further there is no violation of 18 U.S.C. § 3161, the Speedy Trial Act, because not all the defendants are in custody. 18 U.S.C. § 3161(h)(6). Therefore, it is hereby **ORDERED** that the defendant's motion to dismiss the Fourth Superseding Indictment for violations of his speedy trial rights is **DENIED**.

ENTER:

s/ Leon Jordan  
United States District Judge